IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE V.GIRI

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

MFA.No. 775 of 2000()

OPMV.2774/1994 of MOTOR ACCIDENT CLAIMS TRIBUNAL, PERUMBAVOOR .
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APPELLANT: PETITIONER

RAMESH, S/O. CHANDRAN MENON,
MADATHIKULANGARA HOUSE,
MADATHUMPADY P.O. AND VILLAGE,
KODUNGALOOR TALUK, TRICHUR DISTRICT.

BY ADV. SRI.K.SHRIHARI RAO
SMT.N.SHOBHA

RESPONDENTS: RESPONDENTS
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1. **N. ANILKUMAR, S/O. NARAYANA MENON,**
KALALAYAM, ASOKAPURAM P.O.,
ALUVA VILLAGE, ALUVA.

2. **RAJEEV MENON, S/O. ACHUTHA MENON**
KUNNUKUDICKAL HOUSE,
VADAYAMPADY P.O.,
PUTHENKURISSU,
IYKKARANADU SOUTH VILLAGE.

3. **ORIENTAL INSURANCE COMPANY,**
PATTAMANA BUILDINGS,
RAILWAY STATION ROAD, ALUVA.

BY ADV. SRI.GEORGE CHERIAN (THIRUVALLA) -R3

THIS MISC. FIRST APPEAL HAVING COME UP FOR ADMISSION ON 03/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & V.GIRI, JJ.

M.F.A.NO.775 OF 2000 (D)

Dated 3rd August, 2007

JUDGMENT

Koshy, J.

Appellant petitioner met with an accident on 4.4.1994. Tribunal found that the accident occurred due to the negligent driving of the vehicle by the 2nd respondent, insured by the 3rd respondent Insurance company and there was valid coverage of insurance on the date of accident. Against the claim of Rs.1,46,500/- only an amount of Rs.6,400/- was granted. Quantum of compensation is disputed herein. It is the case of the petitioner that as per Ext.A5 wound certificate following injuries were mentioned:

1. Partially broken tip of right incisor upper tooth.
2. Contusion of right shoulder and right thigh.
3. Abrasion soft forearm and right palm of hand.

He was admitted in the Heart Hospital, Thrissur. Thereafter he had severe vomiting and headache and he was referred to Sri.Chithira Thirunal Institute of Medical Science and Technology, Thiruvananthapuram and undergone a major operation and he also produced Ext.A8 case summary and

discharge record. Tribunal did not accept that the above difficulty to left arm and head injury was due to the accident. It was not proved by an expert evidence that those difficulties are related to the accident and hence only for the injuries mentioned in the wound certificate, compensation was granted. We are of the opinion that matter requires evidence because wound certificate itself shows that his head was also injured. He has partially broken tip of tooth upper incisor. There can be difficulties occurred to head which are manifested later. We are of the opinion that it requires evidence. No medical evidence was adduced. In these circumstances, we grant one more opportunity to the appellant to adduce evidence on the question of disability and quantum of compensation. Respondents are also free to adduce evidence. Since the accident occurred on 4.4.1994, we direct the tribunal to dispose of the matter as expeditiously as possible. Parties are directed to take notice that case is posted before the tribunal on 16.10.2007. Appeal allowed by way of remand.

J.B.KOSHY, JUDGE

V.GIRI, JUDGE

prp

J.B.KOSHY & V.GIRI, JJ.

M.F.A.NO.775 OF 2000 (D)

JUDGMENT

Dated 3rd August, 2007